

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

10-CR-6168L

v.

WILLIAM OSWALDO MORAN-MARTINEZ,

Defendant.

The defendant, William Oswaldo Moran-Martinez (“Moran”), is charged in a one-count indictment with illegally re-entering the United States having previously been deported. The Court referred all pretrial matters, including motions, to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. § 636(b).

Moran duly moved to suppress statements and physical evidence. Magistrate Judge Payson conducted a hearing on the motion to suppress physical evidence, and the parties did file memoranda subsequent to the hearing.

Magistrate Judge Payson issued a thorough Report and Recommendation (Dkt. #39). In that report, the Magistrate Judge recommended that this Court deny Moran’s motion to suppress as to two items, a New York State identification card and a social security card. The Magistrate Judge did, however, recommend granting Moran’s motion to suppress the Guatemalan consular identification card. Furthermore, Magistrate Judge Payson recommended that statements made by Moran in March 1998 in connection with his administrative deportation proceedings be denied.


Although advised of their opportunity to object to the Magistrate Judge’s Report and Recommendation, neither side has filed objections. Specifically, the Government has advised that it did not intend to file objections and both Moran’s prior counsel, Mark D. Hosken, Esq., and his present counsel, Kevin McKain, Esq., also advised that they did not intend to file objections.

I have carefully reviewed the Magistrate Judge's Report and Recommendation and the transcript of the suppression hearing (Dkt. #32) concerning the suppression of physical evidence has been prepared for my review. After review of the Magistrate Judge's Report and Recommendation, the transcript and the legal filings of the parties, I accept and adopt Magistrate Judge Payson's Report and Recommendation. I see no basis to reverse or modify that thorough report. Therefore, as indicated by the Magistrate Judge, defendant Moran's motion to suppress the identification card and social security card are denied as his is motion to suppress statements made on or about March 1998. The defendant's motion to suppress seizure of the Guatemalan consular identification card is granted.

CONCLUSION

I accept and adopt the Report and Recommendation (Dkt. #39) of United States Magistrate Judge Marian W. Payson. Defendant's motions to suppress statement and physical evidence (Dkt. #23) are granted in part and denied in part as set forth above.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
August 22, 2011.